



WISCONSIN LEGISLATIVE COUNCIL RULES CLEARINGHOUSE

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CLEARINGHOUSE RULE 09-008

Comments

[NOTE: All citations to “Manual” in the comments below are to the Administrative Rules Procedures Manual, prepared by the Legislative Reference Bureau and the Legislative Council Staff, dated September 2008.]

2. Form, Style and Placement in Administrative Code

a. In the explanation of agency authority section of the rule analysis, the department should provide a more detailed description of the rules mandated by s. 461.06 (1) to (3), Stats.

b. Generally, the proposed rule text repeats the text of ch. 461, Stats. The purpose of administrative rules is to supplement, implement, or interpret legislation. [s. 1.01 (1), Manual.] Administrative rules should avoid unnecessary duplication of statutory text. [s. 1.08 (1), Manual.] The department should consider whether the proposed rule, as drafted, will result in confusion by persons required to comply with ch. 461, Stats. Would the department better serve its constituencies by promulgating only the portions of the proposed rule that supplement, implement, or interpret ch. 461, Stats., rather than repeating statutory text in a word for word manner?

c. The proposed rule includes s. RL 186.08, relating to alternative registrations. This section merely repeats the text of s. 461.02 (7) (b), Stats. Should the department provide further detail on the process regarding assurance by bonded, independent, and qualified assurance organizations? Is it necessary for the department to refer to “the rules promulgated under s. 461.06, Stats.”, in s. RL 186.08?

d. If the department maintains its current general structure of the proposed rule, it should consider whether the rule creates confusion relating to renewal by creating s. RL 186.09, relating to renewal of registrations, but leaving renewal language for limited registrations in s. RL 186.05

(4). If s. RL 186.05 (5) remains in its current form, should it refer to financial capability requirements found in s. RL 186.09 (1) (c)?

e. The department should provide a more descriptive title in s. RL 186.11. In s. RL 186.11 (intro.), the department should cite specific sections of the administrative code, rather than saying “subject to the rules promulgated under s. 440.03 (1), Stats.” If the department is concerned with changes to rules promulgated under s. 440.03 (1), Stats., it should include current administrative code sections in a note. In s. RL 186.11 (2), should the department include a reference to s. RL 186.05 (4), relating to renewals of limited registrations? In s. RL 186.11 (4), the department should refer to the chapter rather than “a rule promulgated under s. 461.06, Stats.”

4. Adequacy of References to Related Statutes, Rules and Forms

In ss. RL 186.04 (1) and 186.05 (1), is the reference to s. 440.03 (9) (a), Stats., sufficient to set the fee for professional employer organization registration? Is it necessary for the department to modify any tables relating to registration fees?